

SENATE BILL 710
By Dixon

AN ACT to enact the "Health Care Consumer Right-to-Know Act of 1997".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The title of this act is, and may be cited as the "Health Care Consumer Right-to-Know Act of 1997".

SECTION 2. Health care is a valuable commodity, and the health care consumer needs to make an informed decision when choosing a physician. Due to the current trends in health care, patients have a close relationship with their primary care physician and must depend on him or her for most of their health care needs. Health care consumers need to know as much as possible about a physician before committing their health care to him or her. Because of the foregoing reasons and because of the increasing concerns over the quality of health care, the General Assembly finds that a system should be established to provide public access to information about the licensed physicians in this state.

SECTION 3. When collecting information or compiling reports intended to compare individual health care providers, the department of health shall require that:

(a) provider organizations which are representative of the target group for profiling shall be meaningfully involved in the development of all aspects of the profile methodology, including collection methods, formatting and methods and means for release and dissemination;

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(b) the entire methodology for collecting and analyzing the data shall be disclosed to all relevant provider organizations and to all providers under review;

(c) data collection and analytical methodologies shall be used that meet accepted standards of validity and reliability;

(d) the limitations of the data sources and analytic methodologies used to develop provider profiles shall be clearly identified and acknowledged, including, but not limited to, the appropriate and inappropriate uses of the data;

(e) to the greatest extent possible, provider profiling initiatives shall use standard-based norms derived from widely accepted, provider-developed practice guidelines;

(f) provider profiles and other information that have been compiled regarding provider performance shall be shared with providers under review prior to dissemination; provided, however, that opportunity for corrections and additions of helpful explanatory comments shall be provided prior to publication; and, provided, further, that such profiles shall only include data which reflect care under the control of the provider for whom such profile is prepared;

(g) comparisons among provider profiles shall adjust for patient care-mix and other relevant risk factors and control for provider peer groups, when appropriate;

(h) effective safeguards to protect against the unauthorized use or disclosure of provider profiles shall be developed and implemented;

(i) effective safeguards to protect against the dissemination of inconsistent, incomplete, invalid, inaccurate or subjective profile data shall be developed and implemented;

(j) the quality and accuracy of provider profiles, data sources and methodologies shall be evaluated regularly;

SECTION 4. The board of medical examiners shall collect the following information to create individual profiles on licensees, in a format created by the board that shall be available for dissemination to the public:

(a) a description of any criminal convictions for felonies and serious misdemeanors as determined by the board, within the most recent ten (10) years. For the purposes of this subsection, a person shall be deemed to be convicted of a crime if he pleaded guilty or if he was found or adjudged guilty by a court of competent jurisdiction;

(b) a description of any charges to which a physician pleads nolo contendere or where sufficient facts of guilt were found and the matter was continued without a finding by a court of competent jurisdiction;

(c) a description of any final board disciplinary actions within the most recent ten (10) years;

(d) a description of any final disciplinary actions of licensing boards in other states within the most recent ten (10) years;

(e) a description of revocation or involuntary restriction of hospital privileges for reasons related to competence or character that have been taken by the hospital's governing body or any other official of the hospital after procedural due process has been afforded, or the resignation from or nonrenewal of medical staff membership or the restriction of privileges at a hospital taken in lieu of or in settlement of a pending disciplinary case related to competence or character in that hospital. Only cases which have occurred within the most recent ten (10) years shall be disclosed by the board to the public;

(f) all medical malpractice court judgments and all medical malpractice arbitration awards in which a payment is awarded to a complaining party during the most recent ten (10) years and all settlements of medical malpractice claims in which a

payment is made to a complaining party within the most recent ten (10) years.

Dispositions of paid claims shall be reported in a minimum of three (3) graduated categories indicating the level of significance of the award or settlement. Information concerning paid medical malpractice claims shall be put in context by comparing an individual licensee's medical malpractice judgment awards and settlements to the experience of other physicians within the same specialty. Information concerning all settlements shall be accompanied by the following statement: "Settlement of a claim may occur for a variety of reasons which do not necessarily reflect negatively on the professional competence or conduct of the physician. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred." Nothing herein shall be construed to limit or prevent the board from providing further explanatory information regarding the significance of categories in which settlements are reported.

Pending malpractice claims shall not be disclosed by the board to the public. Nothing herein shall be construed to prevent the board from investigating and disciplining a licensee on the basis of medical malpractice claims that are pending.

- (g) names of medical schools and dates of graduation;

- (h) graduate medical education;

- (i) specialty board certification;

- (j) number of years in practice;

- (k) names of the hospitals where the licensee has privileges;

- (l) appointments to medical school faculties and indication as to whether a licensee has a responsibility for graduate medical education within the most recent ten (10) years;

- (m) information regarding publications in peer-reviewed medical literature within the most recent ten years;

(n) information regarding professional or community service activities and awards;

(o) the location of the licensee's primary practice setting;

(p) the identification of any translating services that may be available at the licensee's primary practice location;

(q) an indication of whether the licensee participates in the TennCare program.

The board shall provide individual licensees with a copy of their profiles prior to release to the public. A licensee shall be provided a reasonable time to correct factual inaccuracies that appear in such profile.

A physician may elect to have his profile omit certain information provided pursuant to clauses (l) to (n), inclusive, concerning academic appointments and teaching responsibilities, publications in peer-reviewed journals and professional and community service awards. In collecting information for such profiles and in disseminating the case, the board shall inform physicians that they may choose not to provide such information required pursuant to said clause (l) to (n), inclusive.

SECTION 5. The clerk of any court in which an unlicensed practitioner is convicted of holding himself out as a practitioner of medicine or of practicing medicine shall, within one week thereafter, report the same to the board of medical examiners together with a copy of the court proceedings in the case.

In the instance where a physician pleads nolo contendere to charges or where sufficient facts of guilt were found and the matter was continued without a finding by a court of competent jurisdiction, such clerk shall, within one week thereafter, report the same to the board of registration in medicine together with a copy of the court proceeding in the case.

SECTION 6. The board of medical examiners, in implementing the provisions of Section 4 shall not disseminate a physician profile by electronic media, including the World Wide Web of the Internet, so-called, or on CD-ROM, so-called before May 1, 1998. The board shall conduct

a study of the impact of publication of physician profiles by electronic media on the personal safety of physicians and their families, and shall report its findings to the fiscal review committee on or before January 1, 1998. The board shall include in such report a sample profile designed with safeguards recommended by the board pursuant to the aforementioned study. No later than March 1, 1998 and after public hearing, the board shall promulgate regulations to eliminate, to the extent practicable, the possibility that certain information contained in such profiles may jeopardize that personal safety of physicians and their families.

SECTION 7. This act shall take effect upon becoming a law, the public welfare requiring it.